

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT MARTINSBURG**

**BARBARA MULLENAX,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 1:04CV206  
(BROADWATER)**

**JO ANNE B. BARNHART,  
Commissioner, Social Security  
Administration,**

**Defendant.**

**ORDER ADOPTING REPORT AND RECOMMENDATION AND REMANDING CASE  
TO COMMISSIONER FOR FURTHER PROCEEDINGS**

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge John S. Kaull, dated July 22, 2005. To date, Plaintiff has not filed objections to the Report.

The Court, after reviewing the above, is of the opinion that the Magistrate Judge's Report and Recommendation should be and is hereby **ORDERED** adopted.

The Court, therefore, **ORDERS** that Defendant's motion for summary judgment (**Docket number 7**) be **DENIED**. The Court **ORDERS** that Plaintiff's motion for summary judgment (**Docket number 6**) be **GRANTED IN PART**. It is further **ORDERED** that this action be **REMANDED** to the Commissioner for proceedings consistent with the Report and Recommendation and **STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

**DATED** this 18<sup>th</sup> day of August 2005.

  
W. CRAIG BROADWATER  
UNITED STATES DISTRICT JUDGE